

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
Civil Writ Jurisdiction Case No.15279 of 2017**

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Kripa Shankar Lal S/o Shri Lal Bhadur Lal, Village-Khalashpur, P.O.-  
Bhabhua, P.S.-Bhubhua, District-Kaimur ... .. Petitioner  
Versus

1. The State Of Bihar
  2. The State of Bihar, through the Chief Secretary, Old Secretariat, Patna, Bihar.
  3. The Secretary, Department of Water Resources Cum Chairman, Bihar State Construction Corporation Lim
  4. The Bihar State Construction Corporation Limited through its Managing Director and its Head Quarter
  5. The Managing Director, Bihar State Bridge Construction Corporation Limited, Office at Khwaja Imli,
  6. the Secretary, Administration, Bihar State Construction Corporation Limited, Office at Khwaja Imli,
- ... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Anil Kumar Choudhary, Advocate  
For the Respondent/s : Mr.Harish Kumar -GP8

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD  
ORAL ORDER**

3      22-05-2020                      This application has been placed for consideration by the order of the Hon'ble the Chief Justice through virtual court proceeding.

Heard Sri Anil Kumar Choudhary, learned counsel for the petitioner and Shri Harish Kumar, GP -8 representing the State.

The present writ application has been filed for issuance of a writ in the nature of Mandamus to the respondent authorities to make payment of the entire due salary and the retiral benefits to the petitioner with interest thereon.



It is the case of the petitioner that he was working as Chowkidar/Peon in the office unit of Bihar State Construction Corporation Limited (hereinafter referred to as the 'Corporation') and retired unblemished after rendering more than 33 years of service at the age of 58 years on 28.02.2015. The petitioner has alleged that he has not been paid his salary since April, 1993 till the date of his superannuation. The petitioner claims that the Corporation being a Public Sector Undertaking of the Government of Bihar, the Government of Bihar should clear the dues of the employees of the Corporation.

Learned counsel for the petitioner submits that petitioner is a poor person and at this stage after his retirement he is looking for his arrears of salary and in post-retiral dues but the respondent-Corporation has been put under the process of winding up by initiating an insolvency resolution process before the National Company Law Tribunal, Kolkata Bench. It is also submitted that earlier a batch of writ applications of the employees of the Corporation came up for consideration before a learned Single Judge of this Court in C.W.J.C. No. 17718 of 2016 and its analogous matters which were disposed of vide judgment dated 06.09.2018. The learned Single Judge took a view that at this stage when the matter is subjudiced before the National Company Law Tribunal at Kolkata Bench, it would not be appropriate for this



Court to issue any direction. Liberty was, however, granted to the petitioners in those cases to intervene in the proceeding pending before the National Company Law Tribunal at Kolkata.

The aggrieved petitioners have preferred Letters Patent Appeal No. 1481 of 2018 which is pending before this Court and the same was lastly adjourned on 26<sup>th</sup> February, 2020 after taking note of the prayer made on behalf of the appellant that an appeal before the National Company Law Appellate Tribunal, New Delhi was still pending. Learned counsel for the petitioner has informed this Court that the Union representing workmen/employees like petitioner has already intervened in the insolvency proceeding before the Company Law Tribunal at Kolkata Bench.

A counter affidavit has been filed on behalf of respondent nos. 3 to 6. In the counter affidavit statements have been made inter-alia that the Corporation has incurred cumulative loss of Rs. 105.15 Crores and the State of Bihar had filed a winding up petition for liquidation of the Corporation as back as in the year 2003 vide Company Petition No. 05 of 2003 but thereafter, various rounds of proceedings took place and lastly the insolvency proceeding was initiated with the National Company Law Tribunal at Kolkata Bench. In the counter affidavit it has also been specifically pleaded that the State Government is not liable to pay the salary and allowances of the employees of the Boards,



Corporations and the companies. Reliance in this regard has been placed on a Division Bench Judgment of this Court in L.P.A. No. 1940 of 2015 which has been disposed of vide judgment dated 08.02.2017.

Mr. Harish Kumar, learned GP-8 representing the State of Bihar has drawn the attention of this Court towards the stand of the State of Bihar which in fact is reflected in the counter affidavit filed on behalf of respondent nos. 3 to 6.

Having heard learned counsel for the petitioner and learned counsel for the State as also upon taking into consideration the statements made in the counter affidavit of respondent nos. 3 to 6, this Court finds that a similar issue regarding the payment of salaries of the employees of the Corporation came up for consideration before a learned Single Judge of this Court in C.W.J.C. No. 17718 of 2016. The said writ application along with its analogous matters were considered and the learned Single Judge of this Court took a view that the matter being pending before the National Company Law Tribunal at Kolkata Bench, no direction may be issued in those writ applications. As has been taken note of hereinabove, the Letters Patent Appeal preferred against the said judgment is pending before the Hon'ble Division Bench of this Court. The relief prayed in the present writ application are similar to those which were the subject matter of



consideration in the batch of writ applications in C.W.J.C. No.17718 of 2016 and its analogous matters.

This Court finds itself in agreement with the view taken by the learned Single Judge in the batch of writ applications which were disposed of vide order dated 06.09.2018. Learned counsel for the petitioner has submitted that the Union of the workers has already intervened in the proceeding before the National Company Law Tribunal at Kolkata Bench.

This being the position, the writ application stands disposed of in the similar terms as have been done in C.W.J.C. No. 17718 of 2016 and its analogous matters.

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

